

August 22, 1950
OP No. 50-312

Mr. Wilford R. Richardson
County Attorney, Graham County
Safford, Arizona

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ARIZONA ATTORNEY GENERAL

Dear Mr. Richardson:

We have your letter of August 14th in reference to a controversy between Graham and Greenlee Counties as to which county is responsible for medical attention of Leonard Luce, a dependent child.

You state the child was born in Oklahoma, and became eligible for assistance from the State in Greenlee County, Arizona; that afterward a brother of the child made an allotment from pay received while the brother was in the armed services; that the federal authorities required that a guardian be appointed to receive and handle the allotment checks, and that a guardian was appointed by the Superior Court of Greenlee County; however, it does not appear whether this was a guardianship of the person or estate, or both, This might have a bearing on the question. Nor are we advised whether the child's parents are living, and if living, where they reside. Afterward, the Greenlee County Welfare Board placed the child in a foster home in Graham County, but that the guardianship of the child remained in Greenlee County, although the Graham County Welfare Board handled the allotment checks. It further appears the child has developed rheumatic fever, and his medical expenses have increased to \$50.00 per month.

The question is, which county shall bear this medical expense.

We cannot definitely answer your question because the solution depends on the facts in the case. We shall outline certain general principles of law, and you may apply them to the facts in your case.

The question is, in which county is the child domiciled, because the obligation to furnish medical treatment lies with the county in which the child has his domicile.

Section 17-1201, ACA 1939 reads in part as follows:

"County charges are: * * * * *
(6) Necessary expenses for the
support of county hospitals and
of indigent sick whose support
is chargeable to the county;
* * *" (Emphasis supplied)

Section 17-309, ACA 1939 prescribes the duties of the
boards of supervisors, and subdivision 5 reads in part as
follows:

"Provide for the care and maintenance of the indigent, sick and
the dependent poor of the county;
* * *" (Emphasis supplied)

Ordinarily, a child's residence and domicile is that of
his parents, In Re Webb Adoption, 65 Ariz. 176; 177 Pac. 2d 176,
but when a guardian of his person is appointed, a different rule
may apply.

Section 42-114, ACA 1939 is as follows:

"A guardian of the person is charged
with the custody of the ward, and
shall look to his support, health
and education. He may fix the
residence of the ward at any place
within the state, but not elsewhere
without the permission of the court.
A guardian of the property shall keep
safely the property of his ward. He
must not permit any unnecessary waste
or destruction of the real property,
nor make any sale of such property
without the order of the court, but
shall, so far as it is in his power,
maintain the same out of the income
or other property of the estate, and
deliver it to the ward, at the close
of his guardianship, in as good
condition as he received it." (Emphasis
supplied.)

Generally speaking, the residence or domicile of a ward
is that of the guardian of the person. In In Re Perry, 148
NE 163 (Ind.), the Court said:

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" * * * If the custody of the child was by the court legally transferred from the adopting father to the guardian, the residence of the guardian became the residence of the child, and, when the guardian became a resident of Boone county, the child also became a resident of that county. Townsend v. Kendall, 4 Minn. 412 (Gil. 315) 77 Am. Dec. 534; Wilkins' Guardian, 146 Pa. 585, 23 A 325. "

See also Jensen v. Sorensen, 233 NW 717 (Iowa) and State ex rel Logan v. Graper, 4 SW 2nd 955 (Tenn.).

Under these authorities, the residence or domicile of the child would be in the county where the guardian of the person resides, and his medical expense would be a charge in that county, unless the guardian of the person has fixed the residence elsewhere in the state, as authorized by Section 42-114 of our Code, in which event the medical expense would be a charge against the county where the child's residence was fixed by the guardian of his person.

We suggest you get all the facts and apply the rules above stated to the facts of your case, to determine the domicile of the child. If we can be of further assistance call on us. We are sending a copy of this letter to Mr. Harry Hill, Commissioner of the State Department of Public Welfare, and he may be of some assistance in the matter.

Yours truly,

FRED O. WILSON
Attorney General

EARL ANDERSON
Assistant Attorney General

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